

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

**§ 18427. Duties of Treasurers and Candidates With Respect to Campaign Statements.**

(a) Treasurers. The treasurer of a committee must verify that to the best of his or her knowledge the committee campaign statements are true and complete and must use all reasonable diligence in the preparation of such statements. To comply with these duties the treasurer shall:

(1) Establish a system of record keeping sufficient to ensure that receipts and expenditures are recorded promptly and accurately, and sufficient to comply with regulations established by the Commission related to record keeping;

(2) Either maintain the records personally or monitor such record keeping by others;

(3) Take steps to ensure that all requirements of the Act concerning the receipt and expenditure of funds and the reporting of such funds are complied with;

(4) Either prepare campaign statements personally or review with care the campaign statements and underlying records prepared by others;

(5) Correct any inaccuracies or omissions in campaign statements of which the treasurer knows, and cause to be checked, and, if necessary, corrected, any information in campaign statements which a person of reasonable prudence would question based on all the surrounding circumstances of which the treasurer is aware or should be aware by reason of his or her duties under this regulation and the Act.

(b) Candidates with respect to candidate campaign statements. A candidate must verify that to the best of his or her knowledge his or her own campaign statements are true and complete and must use all reasonable diligence in the preparation of such statements. To comply

with these duties the candidate shall be subject to the same duties imposed upon treasurers as stated in (a) above.

(c) Candidates with respect to campaign statements of committees they control. A candidate must verify to the best of his or her knowledge that the campaign statements filed by a committee he or she controls are true and complete and that the treasurer has used all reasonable diligence in preparation of such campaign statements. To comply with these duties, the candidate shall:

(1) Ascertain whether the treasurer is exercising all reasonable diligence in the performance of his or her duties including those duties specified under (a);

(2) Take whatever steps are necessary to replace the treasurer or raise the treasurer's performance to required standards, if the candidate knows or has reason to know that the treasurer is not exercising all reasonable diligence in the performance of his or her duties;

(3) Review with care the campaign statements prepared for filing by the committee;

(4) Correct any inaccuracies and omissions in campaign statements of which the candidate knows, and cause to be checked, and, if necessary, corrected, any information in campaign statements which a person of reasonable prudence would question based on all the surrounding circumstances of which the candidate is aware or should be aware by reason of his or her duties under this regulation and the Act;

(5) Perform with due care any other tasks assumed in connection with the raising, spending or recording of campaign funds insofar as such tasks relate to the accuracy of information entered on campaign statements;

(6) Unless such steps are required to meet the standards set forth in the foregoing paragraphs (1) through (4), a candidate is not responsible for establishing a record keeping

procedure for a committee, monitoring committee record keeping, reviewing campaign finance records other than campaign statements, or personally taking steps to corroborate any information contained on a campaign statement.

(d) Committees where no treasurer is designated. If a committee fails to designate a treasurer as required by Government Code Section 84100, the person who is primarily responsible for initiating and implementing the political activity of the committee will be considered the treasurer and will be subject to all the duties set forth in paragraph (a) of this regulation.

Comment. This regulation sets out the duties of candidates and treasurers only with respect to campaign statements. Among the duties imposed by this regulation on candidates and treasurers with respect to committee campaign statements is to "cause to be checked, and, if necessary, corrected, any information . . . which a person of reasonable prudence would question based on all the surrounding circumstances of which the treasurer [candidate] is aware or should be aware by reason of his or her duties under this regulation and the Act." The circumstances that trigger a duty to inquire under this standard are limited to those actually known to the candidate or treasurer and to those of which he or she should be aware by carrying out his or her duties under the Act and regulation. They do not include circumstances a candidate or treasurer "might" or "should have known" if he or she had gone beyond his or her required duties. For example, Mr. Jones may give Mr. Smith \$100 in cash and instruct him to write a check to the candidate's controlled committee and to conceal the true source of the contribution. The committee reports the contribution as received from Smith. If neither the candidate nor treasurer has any knowledge concerning the questionable nature of the contribution and neither, through performance of their respective duties (such as monitoring campaign records or reviewing

campaign statements), could have learned any facts that would lead one to question the contribution, the candidate and treasurer have no duty of inquiry with respect to the contribution. There is no duty of inquiry even though if Smith were asked he would have revealed the true source of the funds.

Once the known circumstances are such that a question is raised concerning the accuracy of information on a campaign statement, an inquiry is required. It is not possible in a regulation to describe with particularity every factual situation that might trigger such an inquiry since the variety of circumstances that could arise with respect to any particular campaign transaction are endless. By way of example, however, such circumstances might include the following in the case of a contribution: The size of the contribution, the reported source, the likelihood of that source making a contribution of the size reported, the circumstances surrounding receipt, and the manner in which the contribution is recorded in campaign records.

The burden of inquiry is likely to fall more heavily upon the treasurer because it is he, rather than the candidate, upon whom the major record keeping and reporting responsibility falls. Therefore, the treasurer is more likely than the candidate to be the person who, by reason of performance of duties, is aware of or should be aware of facts which would give rise to a duty of inquiry.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 81004, 84100, 84213 and 91004, Government Code.

## HISTORY

1. New section filed 12-13-77 as an emergency; effective upon filing (Register 77, No. 51). For prior history, see Register 77, No. 17.
2. Repealed 4-13-78 by operation of Section 11422.1(c), Government Code. (Register 79, No.

16).

3. New section filed 4-20-79; effective thirtieth day thereafter (Register 79, No. 16).

4. Amendment of subsection (d) filed 1-25-80; effective thirtieth day thereafter (Register 80, No. 4).

5. Editorial correction of section title filed 1-9-81 (Register 81, No. 2).

6. Amendment of section heading filed 2-17-82; effective thirtieth day thereafter (Register 82, No. 8).